

EXHIBIT E

BROWN REPLY DECLARATION ISO APPLE'S MOTION FOR SUMMARY JUDGMENT

Deposition of Danielle Lambert

In Re: HIGH-TECH EMPLOYEE ANTITRUST LITIGATION

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE)
ANTITRUST LITIGATION)
) No. 11-CV-2509-LHK
THIS DOCUMENT RELATES TO:)
ALL ACTIONS.)
_____)

CONFIDENTIAL - ATTORNEYS' EYES ONLY
VIDEO DEPOSITION OF DANIELLE LAMBERT
October 2, 2012

REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR

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12:18:16 1 exactly which companies we had, you know, do-not-call

12:18:21 2 agreements with.

12:18:21 3 Q. Okay.

12:18:23 4 A. Or no cold call. I'm sorry.

12:18:25 5 Q. At that time of the conversation, did you

12:18:29 6 understand that Pixar had do-not-call agreements with --

12:18:33 7 with companies themselves?

12:18:36 8 A. No, I don't believe I was made aware of that.

12:18:39 9 Q. Okay. During this conversation with

12:18:43 10 Ms. McAdams, did you discuss with her your experience

12:18:52 11 with do-not-cold-call agreements?

12:18:57 12 A. I can't recall what we discussed in our

12:18:58 13 conversation.

12:19:00 14 Q. Did you tell her that do-not-cold-call

12:19:06 15 agreements served a valuable purpose for Apple?

12:19:13 16 MR. RILEY: Objection. It's been asked and

12:19:14 17 answered.

12:19:15 18 THE WITNESS: Unfortunately, as I said, I just

12:19:17 19 can't recall the contents of our conversation.

12:19:22 20 MR. SAVERI: Q. Did you tell her or

12:19:25 21 describe for her during this conversation any

12:19:29 22 experience you had had to date regarding agreements

12:19:33 23 with companies not to cold call each other's

12:19:36 24 employees?

12:19:37 25 MR. RILEY: Same objection.

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12:19:39 1 THE WITNESS: Yeah. As I said, unfortunately,
12:19:41 2 I can't recall the contents of our discussion.

12:19:44 3 MR. SAVERI: Q. During this conversation,
12:19:46 4 did Lori McAdams tell you about why she thought it
12:19:51 5 was a good idea to have a -- an agreement with Apple
12:19:55 6 not to cold call each other's employees?

12:19:59 7 A. Not that I can recall. I don't remember the
12:20:01 8 contents of our discussion.

12:20:04 9 Q. Did she tell you during that conversation that
12:20:07 10 Pixar had an agreement with Lucasfilm not to cold call
12:20:12 11 each other's employees?

12:20:14 12 A. Not that I can recall.

12:20:16 13 Q. Did she tell you, when you were discussing the
12:20:19 14 terms of your gentleman's agreement, that this was
12:20:21 15 similar to other agreements that Pixar had reached with
12:20:25 16 other companies?

12:20:26 17 A. Not that I can recall.

12:20:28 18 Q. And did you tell her that this agreement was
12:20:31 19 similar to other agreements that you had with -- that
12:20:35 20 Apple had with other companies?

12:20:39 21 A. Not that I can recall.

12:20:39 22 Q. Well, you understood at the time that this
12:20:41 23 agreement was similar to agreements that Apple had with
12:20:44 24 other companies, correct?

12:20:46 25 MR. RILEY: Objection. The question's vague.

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12:20:47 1 There is no foundation.

12:20:51 2 THE WITNESS: You're asking me that I under --
12:20:52 3 if I understood at the time that Lori and I spoke that
12:20:59 4 we were entering into an agreement that was similar to
12:21:03 5 other agreements that we had with other companies?

12:21:06 6 MR. SAVERI: Q. Correct.

12:21:08 7 A. With respect to not cold calling each other's
12:21:11 8 employees?

12:21:12 9 Q. Yes.

12:21:14 10 A. I don't know if that's what I was thinking
12:21:16 11 about at that time.

12:21:18 12 Q. Well, at this time, in 2007, you were aware
12:21:20 13 that Apple had entered agreements not to cold call each
12:21:24 14 other -- excuse me.

12:21:25 15 You were aware that at this time in 2007 that
12:21:27 16 Apple had reached agreements with other companies not to
12:21:32 17 cold call each other's employees, correct?

12:21:34 18 A. Correct. I -- I do know that during that time
12:21:37 19 frame we had agreements with, you know, different
12:21:42 20 companies at different times throughout that year and
12:21:44 21 other years pertaining to our business matters that we
12:21:48 22 weren't going to be cold calling one another's
12:21:51 23 employees --

12:21:51 24 Q. And we --

12:21:51 25 A. -- but actively recruiting.

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05:48:59 1 of Palm to Steve Jobs dated 24th of August 2007.

05:49:05 2 Let me just ask you this question generally.

05:49:09 3 Did you discuss with Mr. Jobs, on or about this
05:49:14 4 time, Mr. Jobs' discussion with Mr. Colligan about
05:49:20 5 whether or not Apple should enter into a -- an agreement
05:49:25 6 with each other regarding recruiting or not cold calling
05:49:31 7 the two -- the companies' respective employees?

05:49:36 8 A. I don't recall. If I read this it might --

05:49:39 9 Q. Please go ahead.

05:52:48 10 A. Okay. So your question was if I recalled
05:52:51 11 discussions with Steve Jobs around this time?

05:52:56 12 Q. Let me withdraw that. Let me just withdraw
05:52:59 13 that question and ask you a couple other questions.

05:53:01 14 At this time in August of 2007 -- well, let me
05:53:05 15 strike that.

05:53:07 16 Do you recall when Palm started to recruit into
05:53:10 17 Apple?

05:53:15 18 A. The question's a bit vague because it's saying
05:53:17 19 Palm in general started to recruit into Apple, and I
05:53:20 20 don't know when that was.

05:53:22 21 Q. Well, did that -- did Palm recruit into Apple
05:53:27 22 over a number of years?

05:53:29 23 A. I can't recall.

05:53:29 24 Q. One way or the other?

05:53:30 25 A. I don't know because I was never an employee of

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05:53:33 1 Palm, so I don't know what their recruiting efforts
05:53:35 2 were, and I don't remember employees necessarily joining
05:53:40 3 Palm. It's just not something I had knowledge of.

05:53:43 4 Q. Well, in 2007, you were the head of HR, right?

05:53:46 5 A. Yes, I was.

05:53:46 6 Q. And in connection with that job, did you hear,
05:53:49 7 for example, during this time in 2007, that Palm had
05:53:53 8 been recruiting away or attempting to recruit away Apple
05:53:58 9 employees?

05:54:00 10 A. Are you saying during the time period around
05:54:02 11 August of 2007?

05:54:03 12 Q. Yes.

05:54:06 13 A. Around that time frame, and I don't know
05:54:07 14 exactly the date, John Rubinstein who was Apple's former
05:54:15 15 head of hardware engineering and later iPod engineering,
05:54:20 16 had joined Palm. And I do recall John having hired some
05:54:31 17 of our Apple employees. Yes.

05:54:34 18 Q. Did you discuss that with Mr. Jobs?

05:54:41 19 A. I believe so. I'm not sure of the actual
05:54:43 20 discussion, but I do recall, at some point, having
05:54:49 21 conversation, I believe, around the topic.

05:54:51 22 Q. Did you advise Mr. Jobs that that had been
05:54:53 23 happening?

05:54:54 24 A. Did I advise him it had been happening? I
05:54:56 25 don't know.

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05:54:57 1 Q. Did he advise you that it had been happening?

05:55:00 2 A. I don't recall.

05:55:01 3 Q. Well, what did you and he discuss generally
05:55:04 4 about that subject at that time?

05:55:07 5 A. From my recollection, as I just mentioned, that
05:55:10 6 Palm had hired a number of Apple employees.

05:55:17 7 Q. At this time, was Apple recruiting into Palm?

05:55:26 8 A. I can't recall. At this time, you know, as I
05:55:29 9 said, John Rubinstein had joined Apple. And we were
05:55:35 10 quite concerned because he had a ton of our confidential
05:55:40 11 information. He knew very, very confidential
05:55:43 12 information about all of our employees in our
05:55:45 13 engineering space. He knew all of our product roadmaps,
05:55:49 14 and he knew everything about our IP portfolio.

05:55:55 15 Q. On or about this time in August of 2007, did
05:55:57 16 you discuss with Mr. Jobs whether or not it was a good
05:56:00 17 idea to try to get an agreement with Palm not to hire
05:56:05 18 the other's employees?

05:56:08 19 A. I don't recall.

05:56:11 20 Q. Now, do you recall --

05:56:14 21 A. I'm sorry. If I can just back up. Late in the
05:56:16 22 day. I'm sorry.

05:56:17 23 Q. Yeah.

05:56:18 24 A. I believe you said not to hire each other's
05:56:21 25 employees, which we would never have had that

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05:56:24 1 conversation because, again, conversations that Steve or
05:56:27 2 I -- and I had had around anything relating to
05:56:35 3 recruiting, unless there was some legal restriction not
05:56:36 4 to be able to hire from a company, we would continuously
05:56:40 5 hire from companies. We wouldn't cold call from certain
05:56:44 6 companies.

05:56:44 7 Q. Well, Mr. Colligan didn't understand it the
05:56:47 8 same way. I mean, if you look at his email, he says,
05:56:49 9 your -- he discusses your proposal that we agree that
05:56:52 10 neither company will hire the other's employees.

05:56:55 11 Do you see that? It's in the first paragraph.

05:56:57 12 A. Yes.

05:57:06 13 Q. So I guess my question is, did you discuss with
05:57:10 14 Mr. Jobs at this time whether or not it was a good idea
05:57:12 15 to make a proposal to Mr. Colligan or anybody at Palm
05:57:19 16 not to hire the other's employees?

05:57:22 17 A. No. As I said before, we've never had that
05:57:25 18 discussion, Steve or I, about that. I don't know what
05:57:29 19 conversations Steve and Ed had and whether Ed is
05:57:33 20 correctly stating what Steve said to him or not. It
05:57:36 21 looks like it was -- I don't know if it was a phone
05:57:38 22 conversation, but I wasn't privy to it.

05:57:43 23 Q. Now, Mr. Colligan wrote back that that proposal
05:57:46 24 was not only wrong, but it is likely illegal.

05:57:50 25 Do you see that?

1 I, Gina V. Carbone, Certified Shorthand
2 Reporter licensed in the State of California, License
3 No. 8249, hereby certify that the deponent was by me
4 first duly sworn and the foregoing testimony was
5 reported by me and was thereafter transcribed with
6 computer-aided transcription; that the foregoing is a
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or
9 attorney for either of any of the parties in the
10 foregoing proceeding and caption named or in any way
11 interested in the outcome of the cause in said caption.

12 The dismantling, unsealing, or unbinding of
13 the original transcript will render the reporter's
14 certificates null and void.

15 In witness whereof, I have hereunto set my
16 hand this day: October 11, 2012.

17 X Reading and Signing was requested.

18 Reading and Signing was waived.

19 Reading and signing was not requested.

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GINA V. CARBONE

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CSR 8249, RPR, CCRR

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